

RULEMAKING NOTICE

Notice Number	Rule Number	Env-Dw 1002
1. Agency Name & Address:	2. RSA Authority:	RSA 486-A:11
	3. Federal Authority:	n/a
Department of Environmental Services 29 Hazen Drive P.O. Box 95 Concord, NH 03302-0095	4. Type of Action:	
	Adoption	X
	Amendment	
	Repeal	
	Readoption	X
	Readoption w/amendment	X

5. Short Title: **Water Supply Land Protection Grant Program**

6. (a) Summary of what the rule says and of any proposed amendments:

The existing rules, Env-Dw 1002, implement RSA 486 (Aid to Public Water Systems) by establishing the procedures and criteria for the Water Supply Land Protection Grant Program. Under this program, certain entities are eligible to apply for and receive grants to purchase and protect land within the source water protection areas of active or proposed sources of water for community or non-community, non-transient water systems. The existing rules are scheduled to expire on June 23, 2017, and so are proposed to be readopted so the grant program can continue. **The existing rules will continue in place pursuant to RSA 541-A:14-a, I, subject to the conditions specified therein.** As part of the readoption, amendments are proposed to clarify existing requirements and to make the following changes:

- Match property would no longer have to be located in the same source water protection area as the grant property or in a protection area for another source serving the same grantee (Env-Dw 1002.0607(b)(3)e-).
- The scoring system would be changed to include one point to be awarded for applications where the applicant has funds that are already authorized by the applicant's governing body (Env-Dw 1002.4314(r));
- Instead of covering a period of not less than 50 years, the history of land use would have to run from the present back to the property's first developed use or 1940, whichever is earlier (Env-Dw 1002.4516(d)(1));
- The annual stewardship report would have to include a map or sketch (which could be a copy of the survey plan submitted with the application) with the route taken during the site inspection clearly delineated (Env-Dw 1002.2422(d)(3)b.);
- The information required for the annual stewardship report would include the name or position title and contact information of the individual responsible for sending the report to the Department (Env-Dw 1002.2422(d)(3)g.); and
- The grantee would have to notify the Department if there a change to the name/position title or contact information of the individual responsible for submitting the stewardship report (Env-Dw 1002.2422(d)(4).

6. (b) Brief description of the groups affected:

The rules affect entities that are eligible to receive water supply land protection grants, namely municipalities and nonprofit organizations exempt from taxation under section 501(c)(3) of the Internal Revenue Code and having public water supply or land conservation as their principal mission.

6. (c) Specific section(s) of state statute or federal statute or regulation the rule is intended to implement:

Rule Section(s)	Statute(s) Implemented
Env-Dw 1002.01	RSA 486-A:1
Env-Dw 1002.02, 1002.03	RSA 486-A:2
Env-Dw 1002.04(a) & (b)	RSA 486-A:11, II
Env-Dw 1002.04(c)	RSA 486-A:11, III

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Rule Section(s)	Statute(s) Implemented
Env-Dw 1002.04(d)	RSA 486-A:9, II(d); RSA 486-A:11, IV
Env-Dw 1002.04(e), (f)	RSA 486-A:9, II(d); RSA 486-A:11, I, III, & V; RSA 486-A:13
Env-Dw 1002.05	RSA 486-A:11, II & III
Env-Dw 1002.06	RSA 486-A:2, III-a & VIII; RSA 486-A:7, II(a); RSA 486-A:11, II
Env-Dw 1002.07	RSA 486-A:2, III-a & VIII; RSA 486-A:3, II; RSA 486-A:12
Env-Dw 1002.08	RSA 486-A:11, II & III
Env-Dw 1002.09	RSA 486-A:9, II; RSA 486-A:11, II & III
Env-Dw 1002.10	RSA 486-A:11, III
Env-Dw 1002.11	RSA 486-A:7, II(a) - (e); RSA 486-A:11, III
Env-Dw 1002.12	RSA 486-A:11
Env-Dw 1002.13 - Env-Dw 1002.15	RSA 486-A:8, II; RSA 486-A:11, IV
Env-Dw 1002.16	RSA 486-A:11, III
Env-Dw 1002.17 & Env-Dw 1002.18	RSA 486-A:11, I & III
Env-Dw 1002.19	RSA 486-A:11, III
Env-Dw 1002.20	RSA 486-A:1; RSA 486-A:11, III
Env-Dw 1002.21	RSA 486-A:11, III
Env-Dw 1002.22	RSA 486-A:11, III & V
Env-Dw 1002.23	RSA 486-A:7, II(c) & (d); RSA 486-A:11
Env-Dw 1002.24	RSA 486-A:13
Env-Dw 1002.25	RSA 486-A:11; RSA 541-A:22, IV

7. Contact person for copies and questions including requests to accommodate persons with disabilities:

Name:	Holly Green	Title:	DWGB Rules Coordinator
Address:	Dept. of Environmental Services 29 Hazen Drive; P.O. Box 95 Concord, NH 03302-0095	Phone #:	(603) 271-3114
		Fax#:	(603) 271-0656
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The rules also can be viewed in PDF at

<http://des.nh.gov/organization/commissioner/legal/rulemaking/index.htm>

TTY/TDD Access: Relay NH 1-800-735-2964 or dial 711 (in NH)

8. Deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified: **4:00 p.m. on Friday, August 11, 2017**

YOU MAY SUBMIT WRITTEN COMMENTS WITHOUT ATTENDING THE PUBLIC HEARING

☒ Fax

☒ E-mail

☐ Other format (specify):

9. Public hearing scheduled for:

Date and Time: **Thursday, July 27, 2017 at 10:00 AM**

Place: **Room 110, DES Offices, 29 Hazen Drive, Concord NH**

10. Fiscal Impact Statement (Prepared by Legislative Budget Assistant): FIS # 17:087 , dated 06/15/17:

1. Comparison of the costs of the proposed rule(s) to the existing rule(s):

When compared to the existing rules the proposed rules may increase costs to certain political subdivisions and certain non-profit organizations by an indeterminable amount. Not applicable to Env-Dw 1002.02 as these are new rules.**

2. Cite the Federal mandate. Identify the impact on state funds:

No federal mandate, no impact on state funds.

3. Cost and benefits of the proposed rule(s):

The proposed rules require applicants to submit a history of land use from present date back to the property's first developed use or 1940, whichever is earlier. Existing rules require a history for not less than 50 years. The proposed rules require a map or sketch of the property be included with the annual stewardship report whereas the existing rules do not include this requirement. Certain political subdivisions and certain nonprofit organizations may experience an indeterminable increase in costs resulting from the two aforementioned provisions. The Department cannot estimate the impact of these provisions but notes that it receives a map or sketch with most annual reports.

A. To State general or State special funds:

None.

B. To State citizens and political subdivisions:

See 3 above. No impact to State citizens.

C. To independently owned businesses:

None.

**** AGENCY NOTE:** Env-Dw 1002.02 is simply an explicit reference to the definitions in Env-Dw 100 that already apply by operation of law, so there is no cost attributable to the rule.

11. Statement Relative to Part I, Article 28-a of the N.H. Constitution:

Under the Water Supply Land Protection Grant program, eligible entities (municipalities and certain tax-exempt non-profit organizations) may apply for grants to help protect land around sources of public drinking water. Because this is a voluntary program, any increase in costs at the application stage (due to the longer look-back period) would be incurred only after a municipality voted to seek a grant. The only potential cost to existing grantee municipalities that is attributable to the proposed revisions arises from the incorporation of the best practice of providing a map or sketch of the protected property with the route taken during the annual inspection clearly marked on it. Because a survey must be provided with the application and because the required map or sketch can be a copy of the survey, the Department believes that the additional cost to those few grantees who do not already provide this will be *de minimis*, and in any event are within the costs deemed to be allowable under *City of Concord v. State*, 164 N.H. 130 (2012). The proposed readoption with amendment of the rules thus does not create, modify, or expand the program in such a way as to require expenditures by municipalities, and so does not violate Part I, Article 28-a of the New Hampshire Constitution.